

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JOANNE M. ROYER,  
Plaintiff

V.

BLUE CROSS BLUE SHIELD  
OF MASSACHUSETTS, INC.,  
BLUE CROSS BLUE SHIELD  
LONG-TERM DISABILITY BENEFIT  
PLAN, a/k/a OMNIBUS WELFARE  
BENEFITS PLAN  
KEMPER NATIONAL SERVICES, INC.,  
BROADSPIRE SERVICES, INC., and  
SHELDON MYERSON, MD.,  
Defendants

CIVIL ACTION NO:  
NO: 05-CV-10448-GAO

**PLAINTIFF'S OBJECTION TO THE COURT'S ALLOWANCE OF THE  
DEFENDANTS' MOTION TO DISMISS COUNT IV OF THE PLAINTIFF'S  
SECOND AMENDED COMPLAINT**

Now comes the Plaintiff in the above entitled action and does hereby object to the court's allowance of the Plaintiff's Count IV for counsel fees and expenses on the basis that although it may nevertheless be available to the Plaintiff if she prevails on Counts I and II, the fact that it was dismissed may be misinterpreted by another, in the unlikely event that illness or worse requires a transfer of this case under which circumstances, any such succeeding judge or a member of his or her staff may inadvertently construe the dismissal of Count IV as a denial of counsel fees and expenses should the Plaintiff prevail on Counts I and II.

However, by allowing Count IV to remain, in the event the Plaintiff prevails, there would be no prejudice to any Defendant and would allow any successor counsel for the Plaintiff if necessary to ensure that the elements set forth in Count IV are satisfied in the event the Plaintiff prevails.

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Therefore, please note the Plaintiff's formal objection to the court's dismissal of Count IV as to the Defendants.

Dated: February 17, 2006

The Plaintiff, JoAnne M. Royer

By Her Attorney:

s/

  
BERNARD A. KANSKY, ESQ.

MA BBO # 258040/FED #28209

KANSKY & ASSOCIATES

468 COMMERCIAL ST # 100

BOSTON, MA 02109-1020

(617) 227-2020/Fax (617) 227-5717

Berakan@aol.com